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August 19, 1993

Mr. William F. Caton
Acting Secretary
Federal Communication Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: Reply Comments in MM Docket No. 93-106

Dear Mr. Caton

Transmitted herewith, on behalf of the National ITFS Association, are the original and five (5) copies of its Reply Comments in the above-referenced docket.

Should you have any questions with respect to the above matter, please contact the undersigned.

Very truly yours

Wayne Coy Jr.

Enclosures

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AUG 19 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE

Federal Communications Commission

In the matter of

Amendment of Part 74
of the Commission's Rules
Governing Use of the Frequencies
in the Instructional Television
Fixed Service

MM Docket No. 93-106

REPLY COMMENTS

The National ITFS Association ("NIA"), through its attorney,
hereby files its Reply Comments in the above-captioned proceeding.

BACKGROUND

1. NIA is the only national association representing ITFS applicants, permittees, and licensees. It has been a participant at every stage of the proceeding, first urging that a rulemaking process was greatly to be preferred over a waiver request where the change sought is to be permanent and universal not simply to relieve an anomalous situation.

2. In its Comments, NIA accepted the concept of channel loading as an interim measure until digital compression technology became readily available. NIA also urged that the Commission establish certain specifically required clauses in excess capacity leases to protect educators and set a deadline for further review of this interim solution.

3. In the interval since the filing of the Comments, NIA has had the opportunity to meet with representatives of the Wireless Cable Association and to negotiate a limited policy agreement that is the centerpiece of this filing.

COMPROMISE ON CHANNEL LOADING

4. Attached hereto, as Exhibit A, is the policy statement that has been agreed to by NIA and WCA. It goes beyond the mutual endorsement of the concept of channel loading by accepting, for those who choose to participate, the concept of system-wide planning for the broadcast of recapture (i.e. hours 21-40) ITFS programming. It is a strongly held position of NIA that each ITFS operator can only exercise its rights and obligations as a legitimate licensee of the Commission if the minimum programming (i.e. hours 1-20) requirement is being broadcast over a channel of which it is the licensee. Having established that threshold requirement, it is felt that the flexibility of system-wide planning for any additional programming that could not be accommodated on the loaded channel(s) would have benefits for both the educator and the wireless operator resulting in benefits to the constituencies of both services.

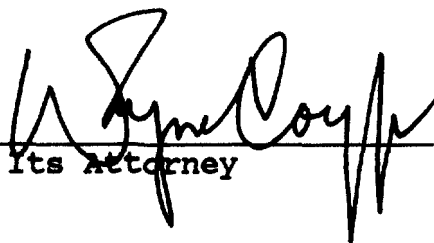
5. NIA urges that the Commission accept the Compromise as a whole, regarding each of the five elements as part of an inter-related, integrated document.

OTHER MATTERS

6. Although not covered in the Compromise itself, NIA continues to urge the Commission to establish a "sunset" at which time it can review the impact of these changes in relationship to the development and economical deployment of digital compression technology. As an interim measure to provide flexibility for the emerging wireless cable industry, the limitations are acceptable. However if one sees these measures as permanent, they are considerably less attractive.

For all of the reasons stated above, and because the association wishes to continue to encourage the development of a strong and vibrant wireless cable industry in partnership with its present and future members, NIA urgently recommends the adoption of all of the concepts in the Compromise and the establishment of a sunset rule.

Respectfully submitted,
NATIONAL ITFS ASSOCIATION

By 
Its Attorney

August 19, 1993

COMPROMISE ON CHANNEL LOADING

Pending the technical and economic viability of digital compression technology, the Commission will permit channel loading and system-wide scheduling on the following basis:

1. Each ITFS licensee will be required to preserve for immediate use or ready recapture at least forty hours per week per licensed channel for the transmission of ITFS programming (including the right to recapture simultaneous use of airtime on the number of the channels for which it is licensed). These rights cannot be abridged by contract and any contracts that do so are superseded. There will be no reduction whatsoever in the amount of mandatory ITFS programming from the current rules.
2. Each ITFS licensee will be required to actually transmit at least twenty hours (twelve hours for the first two years of operation) of ITFS programming each week for each channel licensed to it. Each ITFS licensee will be permitted to load programming satisfying this requirement on less than all of the channels for which it is licensed. The minimum programming requirement (*i.e.* hours 1-20) must be met by transmissions on the channel(s) licensed to the ITFS licensee.
3. In order to promote realization of the benefits of system-wide planning of program schedules, ITFS licensees that choose to do so may agree to the transmission over any MDS or ITFS channel in the system programming satisfying the minimum recapture requirements (*i.e.* hours 21-40). By carefully coordinating their programming schedules as part of a system, the ITFS licensees in an area could create full time educational channels and provide their wireless cable partner with the maximum number of full time commercial programming channels (thus obviating the need for channel mapping technology), while still preserving the ability of the ITFS licensees to transmit multiple programs simultaneously.
4. Leasing and scheduling by ITFS applicants/licensees consistent with the above will establish that the applicant/licensee needs its channel capacity and entitle the applicant/licensee to an initial or renewed license. No demerit for channel loading or system-wide scheduling will be imposed under the Commission's system for selecting from among mutually-exclusive applicants, nor will channel loading or system-wide scheduling have adverse consequences for a renewal application.
5. Similarly, leasing and scheduling by ITFS applicants/licensees consistent with the above will not serve as a basis for future efforts to seek reallocation of non-loaded ITFS spectrum for commercial use, and the parties to the compromise agree not to seek any such reallocation.

CERTIFICATE OF SERVICE

I, Maryam B. Jeffrey, hereby certify that on this 19th day of August, 1993, a copy of the foregoing **REPLY COMMENTS** was served by U.S. mail postage prepaid upon the following:

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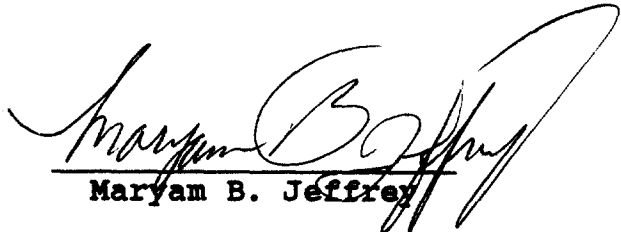
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Maryam B. Jeffrey

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